

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

SHERRILL W. MOSENA)
)
 Plaintiff,)
)
 vs.) No.:
)
 BNSF RAILWAY COMPANY) **PLAINTIFF DEMANDS TRIAL BY**
) **JURY**
 Defendant.)

COMPLAINT

COMES NOW the Plaintiff, SHERRILL W. MOSENA, by and through his attorneys, CALLIS, PAPA & SZEWCZYK, P.C., and for his cause of action against the Defendant, BNSF RAILWAY COMPANY, states:

1. That on or about June 10, 2016, and at all times therein mentioned, the Defendant, BNSF RAILWAY COMPANY, was a corporation organized and existing as a common carrier by rail in and throughout several states of the United States and for the purpose thereof did own, possess, operate and maintain divers railroad cars, tracks and other equipment in and about Will and Cook Counties, Illinois.

2. That at all times herein mentioned, the Plaintiff, SHERRILL W. MOSENA, was employed by the Defendant as a Conductor, and was in the course and scope of his duties on the aforesaid date when he was injured, as hereinafter alleged. The Plaintiff brings this action pursuant to the authority of Title 45, §51, *et seq.*, of the United States Code, commonly referred to as the Federal Employers' Liability Act (F.E.L.A.).

3. This Court has subject matter jurisdiction pursuant to Title 45 U.S.C. §56.

4. That on or about June 10, 2016, the Plaintiff, SHERRILL W. MOSENA, in the normal course of his duties was riding as a passenger in a motor vehicle being operated by Trainmaster Augustus in the Defendant's Logistics Park Yard in Will County, Illinois when he was injured in whole or in part because the Defendant's Trainmaster backed the motor vehicle into a switch stand located near tracks 4504-4506 in Defendant's Logistics Park Yard.

5. That the Defendant, BNSF RAILWAY COMPANY, by and through its duly authorized agents and employees, was then and there guilty of one or more of the following acts or omissions, in violation of the Federal Employers' Liability Act:

- (a) failed to provide a safe place to work by failing to operate the motor vehicle in which Plaintiff was a passenger with due care and caution;
- (b) failed to provide a safe place to work by failing to avoid colliding with the switch stand servicing tracks 4504-4506;
- (c) otherwise negligently and carelessly failed to provide the Plaintiff with a reasonably safe place to work.

6. That as a result, in whole or in part, of one or more of the aforesaid violations of the Federal Employers' Liability Act, the Plaintiff, SHERRILL W. MOSENA, sustained severe and permanent injuries to his back and left arm and the bones, muscles, tissues and nerves thereof resulting in disability and a loss of a normal life; that he has suffered and will continue to suffer great bodily pain and mental anguish; that he has lost and will continue to lose great sums of money and benefits which he otherwise would have earned in the pursuant of his usual occupation; that his earning capacity has been permanently impaired; and that he has spent and will continue to spend great sums of money endeavoring to be cured of his said injuries all to his damage in an amount in excess of Fifty Thousand Dollars (\$50,000.00) and costs of suit.

WHEREFORE, the Plaintiff, SHERRILL W. MOSENA, prays judgment against the Defendant, BNSF RAILWAY COMPANY, in an amount in excess of Fifty Thousand Dollars (\$50,000.00) and costs of suit.

PLAINTIFF DEMANDS TRIAL BY JURY

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